

Frances S. Kaminer (State Bar 108004)
fkaminer@wfkplaw.com
Walter K. Pyle (State Bar 98213)
LAW OFFICES OF WALTER K. PYLE
2039 Shattuck Avenue, Suite 202
Berkeley, CA 94704
Telephone: (510) 849-4424
Facsimile: (510) 849-4741

Attorneys for Plaintiffs John F. Hutchens and Baby S.A.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JOHN F. HUTCHENS, et al.,

Plaintiffs,

v.

COUNTY OF ALAMEDA, et al.,

Defendants.

RELATED CASES:

No. C 06-6870 SBA

JOHN F. HUTCHENS, et al.,

Plaintiffs,

v.

ALAMEDA COUNTY MEDICAL
CENTER, et al.,

Defendants.

No. C 07-5600 SBA

**ORDER GRANTING
PLAINTIFFS' MOTION TO
CONSOLIDATE ACTIONS
(PROPOSED)**

BACKGROUND

On February 20, 2008, Plaintiffs John F. Hutchens and Baby S.A. filed and served a motion under F.R.Civ.P., Rule 42(a)(2) requesting a consolidation of the cases of John F. Hutchens, et al. v. County of Alameda, et al., Case No. 06-06870 SBA and John F.

Hutchens v. Alameda County Medical Center, et al., Case No. 07-05600 SBA

Previously, on February 7, 2008, this court issued an order declaring the cases to be related. Any opposition to the motion to consolidate was due on or before March 11, 2008, that date has passed without opposition having been filed by any party. The matter was set for hearing on April 1, 2008.

The two matters that Plaintiffs seek to have consolidated are both based on allegations of violations of plaintiffs' federal civil rights under Title 42 U.S.C. § 1983 and related state causes of actions involving common questions of law and fact. Both cases have been brought by the same plaintiffs, that is, John F. Hutchens, Zamora Moton and Baby S.A., and they arise out of the same events that occurred at Highland Hospital (Alameda County Medical Center), between the dates of November 4, 2005 through November 7, 2005. The complaint in each case alleges a violation of plaintiffs' Fourth and Fourteenth Amendment rights when Baby S.A. was wrongfully seized from his parents' custody, without a warrant or other court order and in the absence of imminent danger, shortly after birth in the Alameda County Medical Center (Highland Hospital) by Alameda County Social Services emergency response worker Rudolpho Hernandez, in conjunction with Alameda County Medical Center, and that both Alameda County Social Services and Alameda County Medical Center engaged in a pattern and practice to deprive parents of the custody of their children absent exigent circumstances and without a warrant or court order.

LEGAL STANDARD

The decision whether or not to consolidate actions rests within the sound discretion of the trial court. United States EPA v. City of Green Forest Ark.(8th Cir. 1990) 921 F. 2d 1394,1402.

ANALYSIS

The court has reviewed and considered the pleadings filed by all parties, and has considered both the argument presented by the Plaintiffs and the fact that no opposition has been filed by any other.

The court finds that the two cases arise from the same events and they share common questions of law and fact.

The court further finds that consolidation of the two cases would result in more economic pre-trial preparation, avoid needless duplication of discovery, court hearings, and trials.

Under these circumstances, the court finds that F.R. Civ. P., Rule 42(a)(2) is the applicable rule of law and authorizes a consolidation of actions, "If actions before the court involve a common question of law or fact..." [F.R.Civ.P., Rule 42(a)(2)].

CONCLUSION

Consolidating these two related actions into one would likely effect a saving of judicial effort and other economies because both cases involve common questions of law and fact.

Good cause appearing therefore,

IT IS HEREBY ORDERED that both cases be consolidated for all purposes and that from this day forward both cases shall be referenced under Case No. _____

Dated:

SAUNDRA BROWN ARMSTRONG
JUDGE OF THE U.S. DISTRICT COURT